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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,549	11/30/2001	Michael C. Pak	NA11P040/01.254.01	2631
28875	7590	09/12/2005	EXAMINER	
Zilka-Kotab, PC P.O. BOX 721120 SAN JOSE, CA 95172-1120			PERUNGAVOOR, VENKATANARAY	
			ART UNIT	PAPER NUMBER
			2132	

DATE MAILED: 09/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/006,549

Applicant(s)

PAK ET AL.

Examiner

Venkatanarayanan Perungavoor

Art Unit

2132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-15, 17, 18 and 20-31 is/are pending in the application.
- 4a) Of the above claim(s) 7, 16 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-6, 8-15, 17, 18 and 20-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. The Applicant's arguments filed on 8/30/2005 regarding Claims 1, 9-11, 23 are not persuasive. As Hitachi(EP 0893769 A1) discloses the "scanning with a malicious code detection file received after the potentially malicious content" see Col 13 Ln 25-43 & Fig.6 item 613 & 652. As Hitachi suggests of scanning the suspected file with a virus data signature file for infection. And further the Applicant's remarks about the file server being disconnected from the network is misplaced as Hitachi clearly discloses the file server being attached to a network see Col 13 Ln 1-9 & Fig 6 items 612, 601, 650.
2. The Applicant's arguments regarding Claim 4 is not persuasive. Arnold discloses the use of estimated false positives see Col 9 Ln 61-68 and collecting of statistics regarding communications see Col 9 Ln 49-57. Arnold is suggestive of false positive of predetermined amount to be used to indicate when a incorrect assessment is made and thus limit/release the amount of communications received.
3. The Applicant's arguments regarding Claim 6 is not persuasive. As Hitachi discloses the message being having a subject of "acceleration" or "suppression" to be used to determine whether malicious content has been sent see Fig. 1 item 120, 125 & Col 7 Ln 9-17 & Col 9 Ln 18-30.

4. The Applicant's arguments regarding Claim 27 is not persuasive. As Hitachi discloses a messages to be placed on a list and further executing and forwarding of messages see Col 9 Ln 58- Col 10 Ln 37.
5. And finally the Examiner would like to remind the Applicants, *In Syntex (U.S.A.) LLC V. Apotex Inc.*, 74 USPQ2d 1823 (CA FC 2005), "Prior art reference teaches away from claimed invention if it suggests that developments flowing from its disclosures are unlikely to produce objective of invention, and what reference teaches person of ordinary skill in art is not limited to what reference specifically 'talks about' or what is specifically 'mentioned' or 'written' in reference;..."
6. For citations of 35 USC § 102(b) and 35 USC § 103(a) codes please consult previous office action.

Response to Amendment

Claim Rejections - 35 USC § 102

7. Claim 1-2, 5-6, 8-12, 14-15, 17-19, 21-22, 24, 26-31 rejected under 35 U.S.C. 102(b) as being anticipated by EP 0893 769 A1 to Hitachi, Ltd(hereinafter Hitachi).
8. Regarding Claim 1, Hitachi discloses the monitoring network communication over an network, identifying potentially malicious content in the network

communications, quarantining the potentially malicious content, conditionally delivering the network communications based on testing when the potentially malicious content is tested with the file received see Col 5 Ln 21-39 & Col 8 Ln 48-57 & Fig.8 item 801-823.

9. Regarding Claim 2, 12 and 19, Hitachi discloses the scanning for malicious content see Col 4 Ln 1-5.
10. Regarding Claim 5, 14 and 21, Hitachi discloses the electronic mail message see Col 7 Ln 30-33.
11. Regarding Claim 6, 15, and 22, Hitachi discloses the messages being identified by subject line headers see Col 7 Ln 34-45.
12. Regarding Claim 8, Hitachi discloses the cleaning of potentially malicious content see Col 9 Ln 18-30.
13. Regarding Claim 9 and 10 are rejected under the same rationale as Claim 1 above.
14. Regarding Claim 11, Hitachi discloses the monitoring network communication over an network, identifying potentially malicious content in the network

communications, quarantining the potentially malicious content, conditionally delivering after a predetermined period delay the network communications based on testing when the potentially malicious content is tested with the file received see Col 5 Ln 21-39 & Col 8 Ln 48-57 & Col 9 Ln 35-47 & Fig.8 item 801-823.

15. Regarding Claim 17 is rejected under the same rationale as Claim 1 above.

16. Regarding Claim 18, Hitachi discloses the user being the intended recipient of quarantined communications see Col 5 Ln 54- Col 6 Ln 6.

17. Regarding Claim 24, Hitachi discloses the identifying the malicious content through heuristics see Col 8 Ln 20-44.

18. Regarding Claim 26-28, Hitachi discloses the quarantining of malicious content and further notifying the recipients and placing on a list and the forwarding of the copy to recipient see Fig. 8 item 803-804 & Col 7 Ln 46-Col 8 Ln 26.

19. Regarding Claim 29, Hitachi discloses the malicious content being quarantined and scanned with a detection file and quarantined if malicious content is detected see Fig. 8 item 803-804 & Col 13 Ln 44-51 & Col 14 Ln 5-19.

20. Regarding Claim 30-31, Hitachi discloses of creating a detection file after a new type of virus has been detected see Col 13 Ln 12-43 & Col 12 Ln 48-55.

Claim Rejections - 35 USC § 103

21. Claim 3 , 4, 13, 20, 23, are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0893 769 A1 to Hitachi, Ltd(hereinafter Hitachi) in view of U.S. Patent 5,440,723 to Arnold et al(hereinafter Arnold).

22. Regarding Claim 3, 4, 13, and 20 Hitachi does not discloses the mass mailer virus nor a predetermined value used to gauge if malicious content is present. However, Arnold discloses the mass mailer virus see Col 2 Ln 14-25; the use of predetermined value to gauge if malicious content is present is also disclosed by Arnold see Col 9 Line 61-68 & Col 10 Line 53-56. It would be obvious to one having ordinary skill in the art at the time of the invention to mass mailer virus of Arnold in the invention of Hitachi in order to provide protection for the more popular virus as taught in Arnold see Col 26-30.

23. Regarding Claim 23, Hitachi discloses the monitoring network communication over an network, identifying potentially malicious content in the network communications, quarantining the potentially malicious content, conditionally delivering after a predetermined period delay the network communications based

on testing when the potentially malicious content is tested with the file received see Col 5 Ln 21-39 & Col 8 Ln 48-57 & Col 9 Ln 35-47 & Fig.8 item 801-823; Hitachi discloses the messages being identified by subject line headers see Col 7 Ln 34-45; Hitachi discloses the cleaning of potentially malicious content see Col 9 Ln 18-30; notifying of recipients and sender see Col 5 Ln 54- Col 6 Ln 6. But Hitachi does not disclose the use of predetermined value to gauge if malicious content is present. However, Arnold discloses the use of predetermined value to gauge if malicious content is present see Col 9 Line 61-68 & Col 10 Line 53-56. It would be obvious to include a predetermined value of Arnold in the invention of Hitachi in order to make anomaly detection easier as taught in Arnold see Col 5 Ln 22-26.

24. Claim 25 rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0893 769 A1 to Hitachi, Ltd(hereinafter Hitachi) in view of U.S. Patent 5,440,723 to Arnold et al(hereinafter Arnold) further in view of U.S. Patent Publication 2001/0001156 A1 to Leppek.

25. Regarding Claim 25, Arnold does not disclose an histogram used to determine whether the predetermined threshold has been crossed. However, Leppek discloses the use of histogram to detect anomaly see Par. 0024. It would be obvious to one having ordinary skill in the art at the time of the invention to

include a histogram of Leppek in the invention of Arnold in order to get a easy visual representation of the events for easy inspection by system administrator.

Conclusion


26. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Venkatanarayanan Perungavoor whose telephone number is 571-272-7213. The examiner can normally be reached on 8-4:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

28. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VP
9/7/2005

Venkatanarayanan Perungavoor
Examiner
Art Unit 2132


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